UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,609	07/26/2001	Emek Sadot	501022-A-01-US (Sadot)	6788

47701 7590 08/24/2006

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

EXAMINER	
SHIN, KYUNG H	

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/915,609	**Applicant(s)** SADOT, EMEK ET AL.	
	Examiner Kyung H. Shin	**Art Unit** 2143	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *20 July 2006*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-22*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: Response to Remarks

1.1 Applicant argues that the referenced prior art teaches directly away from the claim invention. (see Remarks Page 3, Line 8)

Furthermore, a referenced prior art does not teach away such that "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed.." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). There is no disclosure within the Brendel prior art that criticizes, discredits, or otherwise discourages, in any way shape or form, the storage of session identifiers within a storage table as stated by the Applicant. Brendel does not teach away from the applicant's invention.

There is no citation within the Office Action dated April 18, 2006 that refers to column 15, lines 22-23 within the Brendel prior art or relied upon by the Examiner. (see Remarks Page 4, Lines 14-15) The Applicant stresses this citation as a teaching away disclosure. The Brendel prior art recites several methods for server selection. (see Brendel col. 10, lines 6-9; col. 9, lines 53-56: server selection methods) To emphasize, the Brendel prior art does not criticize, discredit, or discourage, in any way shape or form, the usage of a session information storage table.

1.2 Applicant argues that the referenced prior art does not disclose " ... each of the server being operative to assign a session ID values from its associated one of the pre-assigned groups to sessions handled by that server. (see Remarks page 4, Lines 8-10)

The referenced prior art discloses the applicant invention as disclosed. The Brendel-Choquier-Gongwer combination discloses the claimed limitations argued by the Applicant. Brendel discloses a load balancing system to enable the selection of a server system based a load balancing algorithm. (see Brendel col. 5, lines 61-67: determine designated server from multiple server for client-server message processing)

The Brendel-Choquier combination discloses the selection of a session identifier value. (see Choquier col. 15, lines 28-41: load management system utilizing a range of values assigned to each entity (i.e. server, processor) and utilized in the generation of a calculated ID value (i.e. session ID or session information))

And, the Brendel-Choquier-Gongwer combination discloses the capability for the selection of a session identifier from a pool of identifiers. (see Gongwer col. 2, lines 2-5; col. 9, lines 52-54; col. 12, lines 54-57; col. 12, lines 62-65: session identifier selected from pool of unassigned session identifiers)

1.3 Additionally, the Applicant is reminded that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

1.4 In conclusion, the examiner has considered the applicant's remarks concerning a load balancing system with session identification information (i.e. identifier) selected from a pool of identifiers.

After an additional analysis of the applicant's invention, remarks, and a search of the available prior art, it was determined that the current set of prior art consisting of Brendel (6,772,333), Choquier (5,774,668), Baker (6,611,498) and Gongwer (6,138,120) discloses the applicant's invention including disclosures in the Remarks dated July 20, 2006.

09/915,609 KHS 8/10/2006